

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION BY AMERICAN COMMUNICATIONS	)	
SERVICES, INC., AND ITS LOCAL EXCHANGE	)	
OPERATING SUBSIDIARIES, FOR ARBITRATION	)	CASE NO. 96-467
WITH GTE SOUTH, INC. AND CONTEL OF	)	
KENTUCKY PURSUANT TO THE TELECOM-	)	
MUNICATIONS ACT OF 1996	)	

O R D E R

This matter arising upon petition of GTE South Incorporated ("GTE South"), filed November 26, 1996, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the cost studies and supporting documentation filed in response to the request of American Communication Services, Inc. ("ACSI") on the grounds that disclosure of the information is likely to cause GTE South competitive injury, and it appearing to this Commission as follows:

This is a proceeding initiated pursuant to the Telecommunications Act of 1996 ("the Act"). In this proceeding, ACSI has requested that the Commission arbitrate its dispute with GTE South over the rates GTE South will be permitted to charge ACSI for use of its facilities in providing local exchange service. As part of this proceeding, ACSI has requested commercial information, including cost studies and supporting documentation, developed in conjunction with this arbitration proceeding. In providing the information, GTE South has petitioned that it be protected as confidential.

The information sought to be protected is not known outside of GTE South and its internal use is restricted to those employees who have a legitimate business reason for reviewing it. GTE South attempts to control the dissemination of this material through all reasonable means.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That subsection of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

The Act opens to competition the local exchange market now served by GTE South. Disclosure of the cost study information sought to be protected would provide companies entering the local exchange market in competition with GTE South with information about GTE South and its customers. GTE South's competitors could use the information to develop entry and marketing strategies to the detriment of GTE South. Therefore, disclosure of the information is likely to cause GTE South competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the cost information filed in response to ACSI's data request, which GTE South has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 10th day of January, 1997.

PUBLIC SERVICE COMMISSION

Linda K. Broadbent  
Chairman

Edwin J. H. Hearn  
Vice Chairman

B. J. Helton  
Commissioner

ATTEST:

Don Mills  
Executive Director